

REQUIREMENTS

- A. Any applicant or customer given or sent an adverse action letter must, in addition to the letter, receive an appeal form (DHR/FIA 334) and a return envelope
- B. The applicant or customer has the right to appeal any adverse decision made on an application or on an active case
- C. The request for an appeal can be made:
 - 1. To any employee of the local department whose job assignment requires public contact
 - 2. In writing or orally

PROCEDURES

- A. The local department:
 - 1. Provides the customer with form **DHR/FIA 334, Appeal for Fair Hearings**
 - 3. Assists the applicant or customer with completion of the form
 - 4. Ensures that the form has been properly completed, dated, and signed
 - 5. Advises the applicant or customer of any legal services available
 - 6. Advises the customer of their right to have benefits continue, through the certification period, pending the appeal decision (This does not apply to an applicant)
 - 7. Forwards the completed form to the Office of Administrative Hearings (OAH) within **5 days of receipt**
 - 8. Submits a summary of the facts regarding the appeal to OAH and the customer before the scheduled hearing date
 - 9. Attends the hearing to:
 - Explain how the grant or allotment was calculated
 - State which program policies were used
- B. The applicant or customer has the right to a pre-hearing agency conference prior

to the scheduled date of the appeal hearing

1. The purpose of the conference is to resolve the issue before the scheduled hearing by providing the customer with:
 - An explanation of and a reason for the intended action
 - An opportunity to speak on his/her own behalf (they may be represented by a friend or legal person), to ask questions, and to present information that shows the local department's action is incorrect.
 - An opportunity to informally resolve the dispute and eliminate the need for the fair hearing
2. A pre-hearing conference does not preclude a fair hearing

NOTE: Procedures for accepting and resolving an appeal request vary by local jurisdiction.

- C. If the pre-hearing agency conference ends favorably, the applicant or customer is given or receives a copy of the withdrawal statement
 1. The local department retains a copy, and sends an original copy to OAH
 2. OAH acknowledges receipt of the withdrawal in writing to the local department and to the applicant or customer
- D. Upon receipt of an appeal request, OAH:
 1. Schedules an administrative hearing date
 2. Sends the parties involved notification of date, time, and hearing location
 3. Assigns an Administrative Law Judge (ALJ) to hear the appeal
 4. Has the ALJ hear and record the proceedings, and upon conclusion
 5. Has the ALJ review all evidence and testimony and make a decision in accordance with applicable law
 6. Sends the local department a copy of the decision, and
 7. Sends the parties involved a copy of the decision and information on how to file an appeal in the circuit court if they disagree with the final decision

Note: Should additional information be submitted by the applicant or customer at the hearing that the local department did not have when the decision was made, the local department may request the ALJ to remand the case back to the local department for review of the new information.

- E. If the OAH decision is favorable to the local department, the local department:
1. Takes **immediate** actions to implement the decision, reducing or terminating the case, and
 2. Makes a referral for an overpayment as appropriate
- F. If the decision is favorable to the applicant or customer, the local department:
1. Complies with the decision within **10 calendar days** of the decision date
 2. Issues benefits to correct an underpayment, if applicable (restoring benefits for no more than 12 months)
 3. Notifies OAH, **immediately**, that all required actions have been completed

NOTE: Once a decision is received from OAH, the local department also has the right to challenge the decision and provide substantiating documentation and program policy information to the Secretary within 10 days of receiving the ALJ's decision.

ADDITIONAL INFORMATION

- Adverse Action - Adverse/Timely Notice
- Appeals and Hearings - Discrimination
- Appeals and Hearings - Displaced Workers
- Office of Administrative Hearings
- Work and Education - Displacement and Grievance Procedures